

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

ALFRED C. DIZON

Plaintiff,

vs.

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA.

Defendant.

CASE NO. 7:15-cv-00168-O

DEFENDANT'S MOTION TO DISMISS

Defendant, The Prudential Insurance Company of America (“Prudential”), by and through its attorneys, and pursuant to Fed. R. Civ. P. 12(b)(6) and Local Rule 7.1, submits this motion to dismiss. For the reasons set forth below, and more fully set out in the accompanying memorandum of law in support, the Court should grant Prudential’s motion.

1. The Court should grant Prudential’s motion to dismiss with respect to his claim for benefits on behalf of his niece and nephew because Plaintiff has not cured any defects in his Amended Complaint.

2. The Court should also grant Prudential’s motion to dismiss because Plaintiff lacks standing under Article III of the United States Constitution to pursue a claim for benefits and interest thereon on behalf of his niece and nephew.

3. The Court should also grant Prudential’s motion to dismiss with respect to Plaintiff’s claim for benefits on behalf of his niece and nephew because Plaintiff lacks statutory standing under the Servicemembers’ Group Life Insurance Act (“SGLIA”), 38 U.S.C. §§ 1965, *et seq.* (“SGLIA”).

For the reasons stated above, and in Prudential's memorandum of law in support of this motion, the Court should grant Prudential's motion to dismiss, enter judgment on Prudential's behalf, dismiss Plaintiff's Amended Complaint with prejudice, and award Prudential any relief the Court deems just and proper.

Dated: April 15, 2016

Respectfully submitted,

SEYFARTH SHAW LLP

/s/ Megan E. Troy

Megan E. Troy

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*Attorneys for Defendant,
The Prudential Insurance Company of
America.*

CERTIFICATE OF SERVICE

I, Megan E. Troy, an attorney, do hereby certify that I have caused a true and correct copy of the foregoing DEFENDANT'S MOTION TO DISMISS to be served upon the following, via the Court's CM/ECF system, email, and U.S. mail, on this 15th day of April, 2016:

Alfred C. Dizon
5333 Northview Drive
Wichita Falls, Texas 76306

/s/ Megan E. Troy
Megan E. Troy